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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TODD GLASSEY,

Plaintiff - Appellant,

v.

AMANO CORPORATION; et al.,

Defendants - Appellees.

No. 06-16758

D.C. No. CV-05-01604-RMW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding

Submitted July 1, 2008^{**}

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Todd Glassey appeals pro se from the district court's judgment in favor of defendants in his action alleging bankruptcy fraud and various state law claims.

We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion a

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

dismissal under Federal Rule of Civil Procedure 41(b), *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), and review de novo a grant of summary judgment, *Stratosphere Litig. L.L.C. v. Grand Casinos, Inc.*, 298 F.3d 1137, 1142 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing Glassey's claim against the National Institute of Standards and Technologies for return of property because Glassey failed to amend the operative complaint or indicate that he would not do so after the district court provided him with two opportunities to amend and advised him that judgment would be entered if he failed to amend by the deadline. *See Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004); *see also Ferdik*, 963 F.2d at 1260-63 (addressing factors to consider in determining whether a district court abuses its discretion by dismissing an action under Rule 41(b)).

The district court properly granted summary judgment to Amano Corporation under the doctrine of res judicata because the undisputed evidence establishes that Glassey's claims against Amano involve the same cause of action that was arbitrated between these parties, and the arbitration was confirmed in a final judgment on the merits. *See Intri-Plex Techs., Inc. v. Crest Group, Inc.*, 499 F.3d 1048, 1052 (9th Cir. 2007) (applying state law to determine the preclusive effect of a state court judgment); *Thibodeau v. Crum*, 6 Cal. Rptr. 2d 27,

29-30 (Ct. App. 1992) (explaining that res judicata prohibits litigation between parties of “all matters within the scope of [a previous] arbitration, related to the subject matter, and relevant to the issues”).

The district court properly granted summary judgment to Jay Goldberg, Hudson Venture Partners, LP, and Mark Williams because the undisputed evidence establishes that Glassey’s claims are barred by the release in the parties’ settlement agreement. *See Marder v. Lopez*, 450 F.3d 445, 449-50 (9th Cir. 2006) (analyzing release governed by California law).

We do not consider Glassey’s arguments raised for the first time on appeal. *See Campbell v. Burt*, 141 F.3d 927, 931 (9th Cir. 1998).

Glassey’s remaining contentions are unpersuasive.

AFFIRMED.